

REMARKS

Applicant has amended the above-identified application in response to the Office Action dated December 12, 2005.

Applicant has amended each of independent claims 1, 11 and 12 in order to patentably distinguish the present invention over the cited combination of Zilincar, III in view of Ordoukhanian. Claims 1-3, 5-13 and 15 remain pending.

Zilincar has been previously cited and teaches a display pole support structure including a pair of upper and lower fixed mounting brackets for securing to upper faces of successive gondola shelf displays. As has also been argued previously, Zilincar does not teach or suggest the ability to angularly reposition an extending display member from a single mounting bracket.

The Examiner, recognizing this deficiency, has cited the beverage cooling device of Ordoukhanian in combination with Zilincar and which teaches a vertical support for attaching to a top wall edge of a cooler. A vertically adjustable slide mechanism is mounted on the vertical support and includes a sleeve coupled to a drive mechanism for frictionally gripping a beverage container and which rotates with the sleeve so as to be quickly chilled by the ice in the receptacle.

In contrast to the cited references, each of claims 1, 11, and 12 now further specifically recite that the "U" shaped bracket secures to a lower end of the display member, and such that the display member is pivotally adjustable relative to the bracket, and further such that the bracket mounts to a location of an existing support and in order to support the display member in an elevated and elongate extending fashion. Additionally, and not shown by clutch coupling 36 in Ordoukhanian, is the further recited feature (again in claims 1 and 12) of the arcuate shaped track defined in an extending surface of the bracket interconnecting the display member, the

track further defining a range of pivotal adjustment of the upwardly extending display member relative to the bracket.

In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See *In re Rijckaert*, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that the reference teachings would appear to be sufficient for one of ordinary skill in the art having the references before him to make the proposed combination or modification. See *In re Litner*, 173 USPQ 560, 562 (CCPA 1972).

The conclusion that the claimed subject matter is *prima facie* obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led that individual to combine the relevant teachings of the references to arrive at the claimed invention, see again *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

Rejections based on §103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. Rather, and when satisfying the burden of showing obviousness of the combination, the Examiner can show some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art which would lead that individual to combine the relevant teachings of the references. *In re Lee*, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002), citing *In re Fritch*, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). Broad conclusory statement regarding the teaching of multiple references, standing alone, are not “evidence”. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact. *Dembiczak*, 50 USPQ2d at 1617, citing *McElmurry v. Arkansas Power & Light Co.*, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

Addressing again independent claim 12, the feature of the elongated pivotally secured to the bracket and seatingly engaged with an axially extending interior defined within the associated strip display is not shown by either the Ordoukhanian or Zilincar, III references, and again such that the strip display extends in upwardly extending fashion from the bracket. Applicant again submits that the coupling arrangement 36 in Ordoukhanian does not show or render obvious the claim recitations of the first and second spaced apart plates extending from a surface of the bracket, and such that the plates exhibit aligning tracks, an adjustable wing screw extending through the aligning tracks and an associated end of the elongate insert, whereby further the strip display is supported in an elevated and elongate extending fashion relative the existing support.

Zilincar again recites a pair of upper and lower shelf mounting brackets, combined with screw fastener means for permitting a vertically extending display pole to be vertically (height) adjusted. However, neither cited reference teaches or suggests the repositioning aspect of the extending elongate display member supported upon the pivotally repositionable and elongated insert.

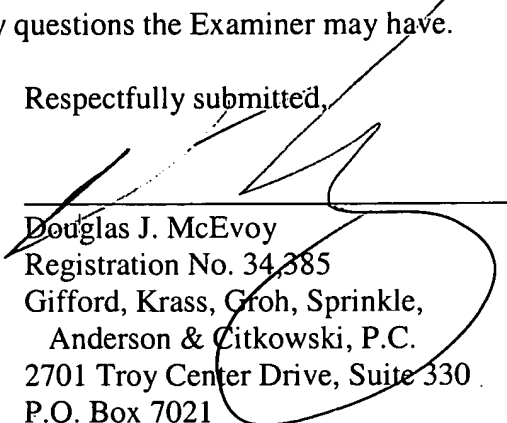


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Response to Office Action of December 12, 2005

In view of the above, it is respectfully submitted that the present application is in formal condition for allowance and favorable action is respectfully requested. Attorney for Applicant may be contacted at (248) 647-6000 with any questions the Examiner may have.

Respectfully submitted,


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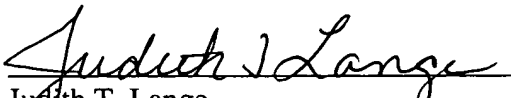
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